



To: Suramy Cabrera, Development Services Director

From: Miriam Soler Ramos, City Attorney for the City of Coral Gables *MSR*

RE: Legal Opinion Regarding Noise Ordinance and the use of generators

Date: November 1, 2019

I have looked into this matter based on your email from yesterday. Sec. 34-170(3) was part of the rewrite of this Code section which occurred in early 2016 (Ordinance No. 2016-18). Based on the transcript from the first and second reading of the Ordinance, it is my opinion that the provision applies only to noise made during the testing of backup generators or during a state of emergency (i.e. hurricane, etc.). During the February 23, 2016 City Commission meeting, in introducing the item, the then-City Attorney explains that the addition of subsection (3) to the draft ordinance was made in order to provide, "relief for emergency backup energy generators *during a state of emergency.*" During the March 15, 2016 City Commission meeting, the City Attorney again makes the point clear in stating: "The Mayor wanted me to mention about generators *during emergencies, in states of emergency or a major storm event or something like that*, the Code does exempt them."

Based on the transcript of the two meetings, it is clear that the Commission's intent was to exempt backup generators from the noise ordinance for purposes of testing and during a state of emergency, but not in their entirety.

This opinion is issued pursuant to Sec. 2-252(e)(1) and (8) of the City Code.

Paulk, Enga

From: Ramos, Miriam
Sent: Friday, November 1, 2019 2:14 PM
To: Paulk, Enga
Cc: Suarez, Cristina
Subject: FW: A noise an pollutant generator in a beautiful city

Enga, please publish.

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

*Board Certified by the Florida Bar in
City, County, and Local Government Law*

City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
(305) 460-5084 direct dial



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From: Ramos, Miriam
Sent: Friday, November 1, 2019 2:13 PM
To: Cabrera, Suramy <scabrera@coralgables.com>; Lopez, Solanch <slopez@coralgables.com>; Garcia, Juan <jgarcia3@coralgables.com>
Cc: Sheppard, Terri <tsheppard@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Talbott, Alexandra <atalbott@coralgables.com>; Garcia, Adolfo <agarcia2@coralgables.com>; Suarez, Cristina <csuarez@coralgables.com>
Subject: RE: A noise an pollutant generator in a beautiful city

Suramy,

I have looked into this matter based on your email from yesterday. Sec. 34-170(3) was part of the rewrite of this Code section which occurred in early 2016 (Ordinance No. 2016-18). Based on the transcript from the first and second reading of the Ordinance, it is my opinion that the provision applies only the noise made during the testing of backup generators or during a state of emergency (i.e. hurricane, etc.). During the February 23, 2016 City Commission

meeting, in introducing the item, the then-City Attorney explains the addition of subsection (3) to the draft ordinance in order to provide, “relief for emergency backup energy generators *during a state of emergency.*” During the March 15, 2016 City Commission meeting, the City Attorney again makes the point clear in stating: “The Mayor wanted me to mention about generators *during emergencies, in states of emergency or a major storm event or something like that,* the Code does exempt them.”

Based on the transcript of the two meetings, it is clear that the Commission’s intent as to exempt back up generators from the noise ordinance for purposes of testing and during a state of emergency but not in their entirety.

This opinion is issued pursuant to Sec. 2-252(e)(1) and (8) of the City Code.

Miriam Soler Ramos, Esq., B.C.S.

City Attorney

*Board Certified by the Florida Bar in
City, County, and Local Government Law
City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
(305) 460-5084 direct dial*



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From: Cabrera, Suramy
Sent: Friday, November 1, 2019 1:54 PM
To: Lopez, Solanch <slopez@coralgables.com>; Garcia, Juan <jgarcia3@coralgables.com>; Ramos, Miriam <mramos@coralgables.com>
Cc: Sheppard, Terri <tsheppard@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Talbott, Alexandra <atalbott@coralgables.com>; Garcia, Adolfo <agarcia2@coralgables.com>
Subject: Re: A noise an pollutant generator in a beautiful city

The owners are challenging the citation and have asked for the city attorney to provide interpretation of city code that they claim exempts them.

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: "Lopez, Solanch" <slopez@coralgables.com>

Date: 11/1/19 9:42 AM (GMT-05:00)

To: "Garcia, Juan" <jgarcia3@coralgables.com>

Cc: "Sheppard, Terri" <tsheppard@coralgables.com>, "Cabrera, Suramy" <scabrera@coralgables.com>, "Cejas, Devin" <dcejas@coralgables.com>, "Talbot, Alexandra" <atalbott@coralgables.com>, "Garcia, Adolfo" <agarcia2@coralgables.com>

Subject: RE: A noise an pollutant generator in a beautiful city

Good morning,

Any updates on this item? Thank you.

Sincerely,

Solanch Lopez, MSM

Assistant to the City Manager

City Manager's Office

405 Biltmore Way

Coral Gables, FL 33134

305-569-1835

slopez@coralgables.com

CoralGables.com



From: Lopez, Solanch <slopez@coralgables.com>

Sent: Monday, October 7, 2019 4:51 PM

To: Garcia, Juan <jgarcia3@coralgables.com>

Cc: Sheppard, Terri <tsheppard@coralgables.com>; Cabrera, Suramy <scabrera@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Talbot, Alexandra <atalbott@coralgables.com>; Garcia, Adolfo <agarcia2@coralgables.com>

Subject: RE: A noise an pollutant generator in a beautiful city

Thank you for the update.

Sincerely,

Solanch Lopez, MSM

Assistant to the City Manager

City Manager's Office

405 Biltmore Way

Coral Gables, FL 33134

305-569-1835

slopez@coralgables.com



From: Garcia, Juan <jgarcia3@coralgables.com>
Sent: Monday, October 7, 2019 4:32 PM
To: Lopez, Solanch <slopez@coralgables.com>
Cc: Sheppard, Terri <tsheppard@coralgables.com>; Cabrera, Suramy <scabrera@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Talbott, Alexandra <atalbott@coralgables.com>; Garcia, Adolfo <agarcia2@coralgables.com>
Subject: Re: A noise an pollutant generator in a beautiful city

Good afternoon Solanch

Both property managers have gotten together and are using the same company to remedy the violation and today 2030 Douglas complained about the backup generator from 2 Alhambra. I took sound measurements and they are in violation as well. Tomorrow I will issue a warning giving them 30 days to comply. As of now there are three properties in violation.

Thank you
Juan Carlos Garcia
Code Enforcement

On Oct 7, 2019, at 2:49 PM, Lopez, Solanch <slopez@coralgables.com> wrote:

Good afternoon,

Any further developments on this item? Please advise, thank you.

Sincerely,

Solanch Lopez, MSM
Assistant to the City Manager
City Manager's Office
405 Biltmore Way
Coral Gables, FL 33134
305-569-1835
slopez@coralgables.com
CoralGables.com
<image001.png>

From: Sheppard, Terri <tsheppard@coralgables.com>
Sent: Tuesday, October 1, 2019 11:17 AM
To: Garcia, Juan <jgarcia3@coralgables.com>
Cc: Lopez, Solanch <slopez@coralgables.com>; Cabrera, Suramy <scabrera@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>; Talbott, Alexandra <atalbott@coralgables.com>; Garcia, Adolfo

<agarcia2@coralgables.com>

Subject: Re: A noise an pollutant generator in a beautiful city

Juan Carlos,

Can you please provide an update?

Thank you,

Terri Sheppard
Field Supervisor
Code Enforcement Division
Development Services Department
427 Biltmore Way, Suite 100
Coral Gables, FL 33134
(305)460-5239
(305)460-5348 Fax

On Oct 1, 2019, at 11:04 AM, Garcia, Juan <jgarcia3@coralgables.com> wrote:

Good Morning Solanch

I emailed both properties in violation and 2030 Douglas is obtaining a second price today and 60 Minorca is obtaining info from a sound engineer to make sure the modification will put them in compliance.

Thank you
Juan Carlos Garcia
Code Enforcement

On Oct 1, 2019, at 9:53 AM, Lopez, Solanch <slopez@coralgables.com> wrote:

Good morning,

Please advise as to the status of this item. Thank you.

Sincerely,

Solanch Lopez, MSM
Assistant to the City Manager
City Manager's Office
405 Biltmore Way
Coral Gables, FL 33134
305-569-1835
slopez@coralgables.com
CoralGables.com
<image001.png>

From: Cabrera, Suramy <scabrera@coralgables.com>
Sent: Thursday, September 19, 2019 11:16 AM
To: Sheppard, Terri <tsheppard@coralgables.com>; Lopez, Solanch <slopez@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>
Cc: Talbott, Alexandra <atalbott@coralgables.com>; Garcia, Adolfo <agarcia2@coralgables.com>; Garcia, Juan <jgarcia3@coralgables.com>
Subject: RE: A noise an pollutant generator in a beautiful city

What is their deadline to apply for the permit, commence work, and complete the work?

Suramy Cabrera, PE
Development Services Director
City of Coral Gables
405 Biltmore Way
Third floor
Coral Gables, FL 33134
305.569.1850

From: Sheppard, Terri
Sent: Thursday, September 19, 2019 10:15 AM
To: Lopez, Solanch <slopez@coralgables.com>; Cejas, Devin <dcejas@coralgables.com>
Cc: Cabrera, Suramy <scabrera@coralgables.com>; Talbott, Alexandra <atalbott@coralgables.com>; Garcia, Adolfo <agarcia2@coralgables.com>; Garcia, Juan <jgarcia3@coralgables.com>
Subject: RE: A noise an pollutant generator in a beautiful city

Good morning Solanch,

Please see response from Juan Carlos Garcia/Code Enforcement Officer for the assigned zone.

Should you need additional information or have any concerns please do not hesitate to contact Juan Carlos or myself.

Regards,

Terri Sheppard
Field Supervisor
Code Enforcement Division
427 Biltmore Way, Suite 100
Coral Gables, FL 33134
(305) 460-5239
(305) 460-5348 fax
tsheppard@coralgables.com

From: Lopez, Solanch
Sent: Wednesday, September 18, 2019 12:08 PM
To: Cejas, Devin <dcejas@coralgables.com>; Sheppard, Terri <tsheppard@coralgables.com>

Cc: Cabrera, Suramy <scabrera@coralgables.com>; Talbott, Alexandra <atalbott@coralgables.com>

Subject: FW: A noise an pollutant generator in a beautiful city

Good afternoon,

Please see below and kindly provide a response. I know this is an item that we have been working on for a while now. Attached are past emails regarding this issue that I have on file. Thank you.

Sincerely,

Solanch Lopez, MSM

Assistant to the City Manager

City Manager's Office

405 Biltmore Way

Coral Gables, FL 33134

305-569-1835

slopez@coralgables.com

CoralGables.com

<image001.png>

From: Valdes-Fauli, Raul <rvaldes-fauli@coralgables.com>

Sent: Friday, September 13, 2019 11:44 AM

To: Iglesias, Peter <piglesias@coralgables.com>; Santamaria, Eduardo <esantamaria@coralgables.com>

Cc: Luzarraga, Beba <mluzarraga@coralgables.com>

Subject: FW: A noise an pollutant generator in a beautiful city

Anything we can/should do?

<image003.jpg>

Mayor Raúl Valdés-Fauli

405 Biltmore Way, Coral Gables 33134

Office: 305-460-5220

Email: rvaldes-fauli@coralgables.com

<image007.png>

[Get the app](#)

<image008.png>

[Be our friend](#)

From: Julio Camino <jrcamino@hotmail.com>

Sent: Tuesday, September 10, 2019 8:19 PM

To: Valdes-Fauli, Raul <rvaldes-fauli@coralgables.com>

Subject: Fwd: A noise an pollutant generator in a beautiful city

CAUTION: External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good evening Mr. Mayor!

It is to kindly remainder about our case. I am monitoring every Wednesday morning and the 2030 Minorca continuing with the same Generator. No update have been made.

We hope for your help!

Regards,

Julio Camino

Enviado desde mi iPad

Inicio del mensaje reenviado:

De: Julio Camino <jrcamino@hotmail.com>

Fecha: 8 de mayo de 2019, 17:02:17 EDT

Para: "rvaldes-fauli@coralgables.com" <rvaldes-fauli@coralgables.com>

Asunto: **Re: A noise an pollutant generator in a beautiful city**

Good afternoon, my Mayor!

Excuse me to take a minute from your time. It is to kindly remainder you about this case.

For the community the latest news was about a hidden generator exhaust causing the pollution.

The generator is still working every Wednesday for 45 minutes to full capacity.

Thanks for your attention and again apologizes for take your time with this case.

Regards,

Julio Camino.

Enviado desde mi iPad

El mar. 17, 2019, a las 23:53, Julio Camino <jrcamino@hotmail.com> escribió:

Good evening Excellence. My name is Julio Camino, journalist and writer, and very important, a follower of you in the three times I have been living in this town.

I molest your attention to briefly expose a case dating from 2015. I actually live in 50 Alhambra Circle. And when I move to this lovely condominium I felt some weekly noise and too much contamination at the private parking lot and the terrace.

The cause is a long affair that this community have lived for some years in that, in my opinion, looks like a non finished business.

You can find attached the case in several letters among the community and the Coral Gables City Staff.

Mr. Mayor, if you consider the case have to be taken into your office duties, I offer a simple solution: the condominium affecting us have to change to a new generation of the equipment. Or they have to cover the actual open windows with plexiglass material in order to stop the monoxide to our property.

I send separately all de letters

Sincerely your,

Julio Camino

jrcamino@hotmail.com

786-489-9800

Enviado desde mi iPad